

**MINUTES FOR THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**April 20, 2006**

DIVISION ONE

B171990      Engle-Grogan et al.  
                         v.  
                         Sussman

(Not for Publication)

The judgment is affirmed with regard to the order approving the payment of \$1,166.76 to appellant by respondent Engle-Grogan and disapproving the Trust Account in all other respects.

The judgment is reversed regarding the awards of: (1) damages based on Betty's alleged breaches of fiduciary duty; (2) \$154,656 as the amount to which respondents are entitled pursuant to the reconstructed account; (3) and \$315,182.19 as costs. The probate court is therefore directed to vacate its orders awarding respondents: (1) "damages of simple interest at the legal rate (10%) on \$43,008.00 from 9/30/85 and simple interest at the legal rate (10%) on \$81,641.00 from 9/30/86, for the trustee's failure to invest in growth, these damages accruing on the principal amount until the principal amount has been paid"; (2) "the sum of \$86,062.00 with simple interest at the legal rate (10%) from March 26, 2001 until paid"; (3) "\$154,656.00, with simple interest at the legal rate (10%) from March 26, 2001 until paid, less any cash already distributed"; and (4) "the amount of \$78,212.79, reflecting the Residual Trust's 45.9% interest in the difference between the actual rental income scheduled to be received from February 15, 2000 to and through December 31, 2002, and the fair market rental rate as determined by the Court (\$0.55 per square foot for the lower floor for 12,208 feet and \$0.275 per square foot for the upper floor of 12,208 feet) for that same period." The probate court is further directed to vacate its order that "Joyce Sussman, individually, . . . pay attorney's fees, expenses and costs to Weinstock, Manion, Reisman, Shore & Neumann, A Law Corporation, in the amount of \$315,182.19."

The probate court also is directed to enter an amended judgment as follows: (1) The Trust Account (namely, the First and Final Account, as supplemented) is not approved; (2) Petitioner Karen Engle-Grogan (now Engle-Potter), as Successor Trustee of the Herman Rosenwasser Residual Trust is ordered to pay to Respondent Joyce Sussman, the sum of \$1,166.76, for the Residual Trust's share of moving expenses, as prayed in

DIVISION ONE (Continued)

B171990      Engle-Grogan et al. v. Sussman (continued)

#7 of the prayer in Respondent's Trust Account; (3) All other relief requested in the Trust Account is denied; (4) Respondent Joyce Sussman, as Successor Trustee of the Herman Rosenwasser Residual Trust but solely in her capacity as the Personal Representative of the Estate of Betty Rosenwasser, is ordered to pay Karen Engle-Grogan and Teri Potter \$4,225.74 with simple interest at the legal rate (10%) from March 26, 2001 until paid; and (5) All other relief requested by Petitioners Karen Engle-Grogan and Teri Potter is denied. Each party shall bear her own costs on appeal.

Mallano, J.

I concur:      Spencer, P.J.

I concur in judgment only:      Vogel, J.

B178696      Mal Yo Yu      (Not for Publication)  
v.  
World Savings, Inc., et al.

The judgment is affirmed.

Mallano, J.

We concur:      Spencer, P.J.

Vogel (Miriam A.), J.

April 20, 2006 (Continued)

DIVISION TWO

B184739      Los Angeles County, D.C.S.                      (Not for Publication)  
                 v.  
                 Robin L.

The order is affirmed.

Ashmann-Gerst, J.

We concur:   Doi Todd, Acting P.J.  
                 Chavez, J.

B180213      Adamakis  
                 v.  
                 Defendant Doe 3 et al.

Filed order denying petition for rehearing.

DIVISION FOUR

Court convened at 9:00 A.M.

Present: Epstein, P.J., Willhite, J., Hastings, J. (Assigned) and S. Veverka, Deputy Clerk.

Each of the following:

B188632      Zikia M. v. SCLA  
B185162      DCFS v. Oscar V.  
B184741      DCFS v. Kimberly D.  
B180803      People v. Romero  
B184805      DCFS v. Gloria U.  
B186474      DCFS v. Larry S.  
B183111      People v. Padilla  
B181919      People v. Gallegos  
B182289      People v. Martin  
B184693      Walker v. Pierce

Argument waived, cause submitted.

DIVISION FOUR (Continued)

B186824     Rosser  
              v.  
              Superior Court, Los Angeles County  
              (People, r.p.i.)

Merits:  
Argued by John Hamilton Scott for petitioner and by Shirley S.N. Sun for  
real party in interest. Cause submitted.

B165662     People  
              v.  
              Lai, et al.

Merits:  
Argued by Tracy Dressner for appellant Lai and by Lawrence M. Daniels  
for respondent. Appellant Luu waived oral argument. Cause submitted.

B180581     Hamrick  
              v.  
              Horace Mann Companies

Merits:  
Argued by John D. Rowell for appellant and by Donna D. Melby for  
respondent. Cause submitted.

B182726     Orme et al.  
              v.  
              County of Los Angeles

Merits:  
Argued by John E. Sweeney for appellants and by Elizabeth M. Kessel for  
respondent. Cause submitted.

Court adjourned.

DIVISION FIVE

B180339      People                                  (Not for Publication)  
v.  
Gary Holden and Charles Walker

The clerk of superior court is directed to prepare amended abstracts of judgment and forward them to the Department of Corrections which reflect that no fines were imposed pursuant to Penal Code sections 1202.4, subdivision (b) (1), and 1202.45 and Mr. Holden was not entitled to any presentence conduct credits. The judgments are affirmed in all other respects.

Turner, P.J.

We concur:    Armstrong, J.  
                         Kriegler, J.

B182240      Engine Clean Technologies      (Not for Publication)  
v.  
Essex Insurance Company

The judgment is affirmed. Respondent(s) to recover costs.

Turner, P.J.

We concur:   Armstrong, J.  
                          Kriegler, J.

## DIVISION SEVEN

B174379 People  
v.  
Martinez and Sandoval

Filed order granting petition for rehearing.

April 20, 2006 (Continued)

DIVISION EIGHT

B170095     People  
              v.  
              Devore et al.,

Filed order modifying opinion. Petitions for rehearing are denied.  
(No change in the judgment)